THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.17695 of 2006

DATE: 25.08.2006

Between:

The Amadalavalasa Cooperative Sugar Factory Ltd., Amadalavalasa, rep., by its Managing Director, S.L. Satyanarayana, S/o. S.S. Rama Rao.

... PETITIONER

AND

The Controlling Authority under Payment of Gratuity Act and Assistant Commissioner of Labour, Srikakularm.

... RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.17695 of 2006

ORDER:-

The Amadalavalasa Co-operative Sugar Factory Limited, represented by its Managing Director, has filed writ petition assailing the notice dated 09.01.2006, issued by the Assistant Commissioner of Labour-cum-Court of the Controlling Authority under the Payment of Gratuity Act, 1972 (for short "the Act"), Srikakulam.

The case of the petitioner-Company is that some of its employees, who had received voluntary retirement scheme (VRS) benefits, which include payment under the Gratuity Act, filed applications under the Payment of Gratuity Act, 1972 before the respondent-Assistant Commissioner of Labour-cum-Controlling Authority under Payment of Gratuity Act, Srikakulam, claiming difference of gratuity for 7 ½ days per year, and that the respondent authority entertained the said applications being P.G. Nos. 18 to 21 of 2006 and issued the impugned notices directing the petitioner-Company to appear before him for determination of the issue. Aggrieved by the said notice, the petitioner-Company filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Labour, and perused the material on record.

The main contention advanced by the learned counsel for the

petitioner-Company is that the workmen, who filed the applications under Payment of Gratuity Act before the respondent authority, have already received the benefits under the voluntary retirement scheme, which include the gratuity payable under the Payment of Gratuity Act, and therefore, the applications filed by them are not maintainable, and the respondent-authority committed an error in entertaining the said applications.

The impugned notice is merely a show cause notice, calling upon the petitioner to appear before the authority and contest the claim of the workmen. The petitioner can as well raise all the objections, raised in this writ petition, before the respondent-authority and request him to close the cases in view of the settlement arrived at between the employees and the organization under VRS Scheme. It is premature to say that the applications, filed by the employees before the respondent-authority, are not entertainable even before contest.

In the circumstances, without interfering with the impugned notice, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to submit his explanation to the notice, and raise the objections, which he sought to raise before this Court, in the P.G. before the respondent-authority, and in such a case, the authority shall consider the same, before proceeding further in the matter.

Accordingly, the writ petition is disposed of. No order as to costs.

N.V. RAMANA, J

Date: 25.08.2006
ES/NSR